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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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09/435,657

11/08/1999

JOHN L. TOMICH

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5515

7590

07/11/2005

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EXAMINER

JONES, PRENELL P

ART UNIT

PAPER NUMBER

2667

DATE MAILED: 07/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/435,657

Applicant(s)

TOMICH ET AL.

Examiner

Prenell P. Jones

Art Unit

2667

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 22 November 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 16-28 and 44-61 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 16-28, 44-54 and 61 is/are allowed.
- 6) ☒ Claim(s) 55 and 60 is/are rejected.
- 7) ☒ Claim(s) 56-59 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

***Response to Arguments***

1. Applicant's arguments with respect to claims 16-28, 44-60 have been considered but are moot in view of the new ground(s) of rejection.

***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).
4. Claims 55 and 60 are rejected under 35 U.S.C. 103(a) as being unpatentable over Metz et al in view of Hwang.

Regarding claims 55 and 60, Metz discloses (Abstract, Figure 1) a communication system that utilizes multiple digital set-top terminals in a (col. 7, line 27-47, col. 8, line 33-67,

digital broadcast loop distribution network, set-top terminals include digital entertainment terminal (DET), (col. 21, line 50-55, col. 26, line 2-3, col. 42, line 64 thru col. 47, line 60) computers connected to plurality peripheral devices associated with video segments (bandwidth segments) whereby the (col. 9, line 28-45) DET includes a microprocessor/control processor, and data channel on common cable shared by all connected set-tops. However, Metz is silent on microcontroller associated with each set-top. In analogous art, Hwang discloses (Abstract, col. 8, line 31-67) a CATV environment, multi-media on-demand work group, iTVpanel that consist of a PC-based or micro-controller-based set-top box and that interfaces host processor via attached devices (peripherals), (col. 9, line 22 thru col. 10, line 46, col. 19, line 5-40) cable segments, and a plurality C-iTV panels (set-top box). Therefore, it would have been obvious to one of ordinary skill in the arts at the time of the invention to be motivated to implement a micro-controller with each set-top box as taught by Hwang in his CATV environment with the teachings of Metz for the purpose of allowing each workstation/set-top the ability to control its workstation routing and obtaining services without the stress of a central control center that handles the monitoring of all workstations/set-top.

***Allowable Subject Matter***

1. Claims 16-28, 44-54 and 61 are allowed over prior art.
2. Claims 56-59 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.
3. The following is a statement of reasons for the indication of allowable subject matter:  
Although the prior art discloses a multimedia super-ring architecture of a plurality of set-top

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boxes/terminals, wherein peripheral devices are coupled to the ring architecture coupled with a multi-access channel, interface device for plurality of video peripherals, multiple users access to a PC-based server in a home local area network using conventional TVs as display and set-top box as an interface between the TV and the network, plurality of set-top boxes, wherein the architecture includes a micro-controller, which controls a set-top box and the micro-controller includes memory, an introduction of micro-controllers for providing communication between peripheral devices and system control processor, freeing the system control processor to perform other task as to improve the system performance, system accommodates multimedia communications they fail to teach/suggest photonic network that includes a program executed by the set-top box micro-controller, adapted to route the data bandwidth segments according to a software subscription table stored in memory, head-end circuit adapted to format bandwidth segments into a signal transmittable via a wide-signal bandwidth, wherein a channel selection register adapted to designate a core television channel selection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Prenell P. Jones whose telephone number is 571-272-3180. The examiner can normally be reached on 9:00-5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Chi Pham can be reached on 571-272-3179. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Prenell P. Jones

July 6, 2005



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7/7/05